

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

06-4597  
US v. Melvin L. Gary  
( Payne )

SEARCH & SEIZURE. Whether flawed supporting affidavit undermined search warrant; Leon good faith exception.

07-1502  
Great West Life & An v. Information Systems  
( Williams )

ERISA. Whether insurer's breach of contract claim against health benefit plan sponsor preempted by ERISA.

07-1478  
Stephens v. County of Albemarle  
( Moon )

CONSTITUTIONAL LAW. Whether government may constitutionally require silence regarding potentially hazardous conditions as part of settlement agreement.

07-4922  
US v. Darius L. Galloway  
( Fox )

CRIMINAL LAW & PROCEDURE: Whether the district court erred in suppressing post-arrest statements on ground that there was no probable cause for the arrest.

Tuesday, March 18, 2008

PANEL I  
Courtroom 1  
Room 412 (Red Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1664  
Kenney v. Tidewater  
( Adams )

BANKRUPTCY: Interpretation of "hanging paragraph" added to 11 U.S.C. Section 1325(a) by the 2005 Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

07-4439  
US v. Jesus Chacon  
( Cacheris )

SENTENCING. Whether Maryland conviction of second degree rape is "crime of violence" supporting enhancement under USSG Section 2L1.2.

07-1195  
Buckley v. Gonzales  
( Ellis )

CIVIL. Whether district court erred in barring evidence of prior litigation under Rule 404(b) and granting judgment as a matter of law to defendants on Title VII retaliation claim.

07-6248  
Spencer v. Earley  
( Hilton )

ADA. Whether statute abrogates sovereign immunity in prison context, where claimed violations are not constitutional.

Tuesday, March 18, 2008

PANEL II  
Courtroom 2  
Room 201 (Green Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-6347 Wilson v. Johnson ( Brinkema )	CIVIL RIGHTS. Whether Heck v. Humphrey, 512 U.S. 477 (1994) bars released prisoner from bringing an action under 42 U.S.C. Section 1983 (2000) to challenge additional time served.
07-1914 Equity in Athletics v. US Dept of Education ( Conrad )	CIVIL RIGHTS. Challenge to denial of interim injunctive relief in suit based on Title IX and Equal Protection Clause.
07-1256 LeRose v. US ( Copenhagen )	FEDERAL TORT CLAIMS ACT. Who bears burden of proving whether discretionary function exception applies; was conduct within scope of employment.
06-6719 Harris v. Dir VA Dept of Corr ( Lauck )	HABEAS CORPUS. Whether mandamus petition raising an ineffective assistance of counsel claim qualifies as a properly filed application for post-conviction review and tolls the statute of limitations.

Tuesday, March 18, 2008

PANEL III  
Courtroom 3  
Room 223 (Tan Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-4690  
US v. Gary D. Finley  
(Friedman)

SENTENCING GUIDELINES. Whether, after United States v. Booker, the standard of review for sentences in assimilated offense cases is “reasonable” or “plainly unreasonable;” propriety of sentence.

07-1509  
Terry v. Meredith  
( Hudson )

BANKRUPTCY: Whether the district court erred in interpreting 11 U.S.C. § 550(a) regarding the fraudulent transfer of assets; other issues.

07-4023  
US v. Godfrey Bonsu  
( Blake )

CRIMINAL LAW & PROCEDURE. Whether district court erred in permitting evidence and argument regarding threats to government witnesses; other issues.

Tuesday, March 18, 2008

PANEL IV  
Courtroom 4  
Room 414-D (Tweed Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-4558  
US v. Aaron Hernandez  
( Brinkema )

CRIMINAL. Whether DWI offense was "serious" to warrant jury trial.

06-1745  
Austin v. Winter  
( Ellis )

TITLE VII. Whether the district court properly granted summary judgment in favor of employer for failure to exhaust administrative remedies.

07-1402  
Sikora & Associates v. Storey  
( Floyd )

ERISA. Standing issues; jurisdiction over state law claims.

07-4628  
US v. Qualo Lowery  
( Conrad )

CRIMINAL. Discrepancy in police officer's recreation of case notes; Rule 404(b) evidence; sentencing issues.

Tuesday, March 18, 2008

PANEL V  
Courtroom 5  
Room 229 Courthouse Annex  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1708  
Deem v. BB&T Corporation  
( Goodwin )

ERISA: Whether plaintiff's breach of contract claim is preempted by ERISA; other issues.

07-1374  
Sammy Gabriel v. Mukasey

IMMIGRATION. Whether the Board's failure to consider independent evidence in denying withholding from removal was harmless error.

07-1487  
Salvin v. American Natl Prop  
( Friedman )

ATTORNEYS FEES: Whether the district court abused its discretion in awarding attorneys' fees against plaintiff's attorney under 28 U.S.C. Â§ 1927.

06-2254  
Hansen v. Isuzu Motors Limited  
( Perry )

TORTS: Whether jury charge regarding claim of negligent misrepresentation was in error; whether post-sale representations of manufacturers should have been admitted in evidence.

Wednesday, March 19, 2008

PANEL I  
Courtroom 1  
Room 412 (Red Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1695  
Benson v. CSX Transportation  
( Chambers )

FELA: Numerous issues arising out of jury verdict in favor of plaintiff in FELA suit.

06-1944  
Turner v. City Council, et al  
( Spencer )

ESTABLISHMENT CLAUSE. Whether city council's "nonsectarian" prayer violates Establishment Clause.

07-1237  
Strategic Outsourc v. Continental Casualty  
( Conrad )

CONTRACT LAW: Numerous issues regarding claims for breach of contract, insurance bad faith, and unfair and deceptive trade practices.

Wednesday, March 19, 2008

PANEL II  
Courtroom 2  
Room 201 (Green Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1516  
US exrel Wilson etal v. Kellogg Brown  
( Lee )

FALSE CLAIMS ACT. Fraudulent Inducement Doctrine; whether employment counts must be arbitrated.

07-4310  
US v. Kenneth N. Harvey  
( Moon )

CRIMINAL LAW & PROCEDURE. Whether evidence was sufficient to sustain wire fraud and bribery convictions; whether district court's comments prejudiced appellants; sentencing issues.

07-1037  
Ruttenberg v. Jones  
( Ellis )

CONSTITUTIONAL LAW. Challenge to summary judgment in favor of defendants on First, Fourth, and Fourteenth Amendment claims arising out of search of pool hall and revocation of ABC license.

Wednesday, March 19, 2008

PANEL III  
Courtroom 3  
Room 223 (Tan Carpet)  
9:30 a.m



UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1008 Physicians Committee v. General Mills, Inc. ( Brinkema )	CONSUMER PROTECTION LAW. Whether Virginia consumer protection statutes permit private parties to seek injunctive relief; whether doctrine of primary jurisdiction is applicable; other issues.
07-1194 Covenant Media of NC v. City of Monroe, NC ( Mullen )	CONSTITUTIONAL LAW. Whether the district court erred in finding that the plaintiffs lacked standing to challenge constitutionality of sign regulations; other issues.
07-4386 US v. Pradeep Srivastava ( Titus )	CRIMINAL LAW and PROCEDURE. Did the district court err in ordering blanket suppression of evidence seized from search warrant locations; other issues.

Wednesday, March 19, 2008

PANEL IV  
Courtroom 4  
Room 414-D (Tweed Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

06-4905  
US v. Chenomusa N-Jie  
( Stamp )

CRIMINAL LAW & PROCEDURE. Whether district court erred in failing to grant appellant's request for an evidentiary hearing on issue of juror bias; other issues.

06-1477  
Allnutt v. Commissioner, IRS

TAX LAW & PROCEDURE. Whether delivery of signed photocopy of return to local district director office started the running of statute of limitations for deficiency notice.

07-1352  
Ellis v. Grant Thornton LLP  
( Faber )

NEGLIGENT REPRESENTATION. Whether auditors owe a duty of care to potential employee of audited company; issues regarding causation and damages.

07-1382  
Bowers v. Scurry et al.  
( Moon )

CIVIL RIGHTS. Whether university employee's First Amendment rights were violated by firing related to the sending of personal e-mail from university computer; whether qualified immunity applies; other issues.

Wednesday, March 19, 2008

PANEL V  
Courtroom 5  
Room 229 Courthouse Annex  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-4639  
US v. Salman K. Abuelhawa  
( Brinkema )

CRIMINAL LAW & PROCEDURE: Whether person who uses telephone to place an order to purchase a drug for personal use may be convicted of causing or facilitating the commission of a drug felony in violation of 21 U.S.C. Â§ 843(b); other issues.

Wednesday, March 19, 2008

AFTERNOON PANEL  
Courtroom 1  
Room 412 (Red Carpet)  
3:00 p.m.

Run Date: Friday, February 29, 2008

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

06-5203  
US v. Curtis Lynn Morgan  
( Turk )

CRIMINAL LAW & PROCEDURE. Whether government breached plea agreement; whether plea was knowing and voluntary; whether appellate waiver should be enforced; other issues.

07-6836  
Haxhiaj v. Hackman  
( Brinkema )

HABEAS. Whether evidence sufficient under Extradition Treaty to support extradition of prisoner to Italy.

07-1528  
Race City Fasteners v. Selective Ins Co SC  
( Voorhees )

INSURANCE. Propriety of summary judgment in favor of plaintiff as assignee of insured after insurance company failed to defend against plaintiff's claim for property damage from piston anodizing line.

06-2114  
Spence v. Educational Credit  
( Mayer )

BANKRUPTCY. Whether repayment of student loan debts would create an undue hardship for debtor.

Thursday, March 20, 2008

PANEL I  
Courtroom 1  
Room 412 (Red Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1251  
Dorothy Freeman v. North State Bank  
( Boyle )

TITLE VII. Whether lower discretionary bonus is adverse employment action; other issues.

07-1377  
Smith v. Metropolitan Life  
( Howard )

ERISA. Whether plan administrator properly denied benefits; propriety of costs and fees award.

07-1390  
Larson v. Old Dominion Freight  
( Beaty )

ERISA. Termination of long term disability benefits.

Thursday, March 20, 2008

PANEL II  
Courtroom 2  
Room 201 (Green Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-0003  
Jackson v. Johnson  
( Kelley )

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

07-1409  
Allen v. Choice Hotels Intl  
( Herlong )

PERSONAL INJURY: Whether hotel franchisor owes a duty to guests regarding regulation of life safety systems and security concerns; whether issue should be certified to state supreme court; other issues.

07-1403  
Cupples v. Amsan  
( Whitney )

CIVIL. Whether district court applied correct evidentiary burdens when ruling on motion for summary judgment as to ADEA claims; whether genuine issues of material fact precluded summary judgment.

07-1697  
Page v. Lexington Cnty  
( Currie )

CONSTITUTIONAL LAW: Whether local governmental entity violated plaintiff's First Amendment rights by denying access to public channel of communication regarding pending state legislation; other issues.

Thursday, March 20, 2008

PANEL III  
Courtroom 3  
Room 223 (Tan Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1696  
Orem v. Rephann  
( Keeley )

CIVIL RIGHTS: Whether police officer is entitled to qualified immunity regarding use of excessive force claim.

07-1196  
Ahuja v. Ericsson Inc  
( Titus )

ERISA: Entitlement to severance benefits when claimant declined to relocate as part of reorganization.

07-1329  
Liberty Commons Alam v. Leavitt

HEALTHCARE LAW. Are the Secretary's interpretation and application of Health and Human Services "accident hazards" regulation arbitrary and capricious; whether nursing home was denied procedural due process.

Thursday, March 20, 2008

PANEL IV  
Courtroom 4  
Room 414-D (Tweed Carpet)  
9:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1373  
Dorothy Anim v. Michael Mukasey

IMMIGRATION. Validity of oral consent to disclosure; effect of non-consent on evidence establishing invalidity of documents; other issues.

07-1512  
MD Dept Health v. Centers for Medicare

ADMINISTRATIVE LAW. Challenge to disapproval by Centers for Medicare and Medicaid Services of state limitations on post-eligibility deductions from income.

07-1108  
Saunders v. Branch Banking  
( Dohnal )

FAIR CREDIT REPORTING ACT: Whether substantial evidence supports verdict of willful violation of FCRA by bank; whether punitive damages award is excessive; other issues.

Thursday, March 20, 2008

PANEL V  
Courtroom 5  
Room 229 Courthouse Annex  
9:30 a.m



UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-4131  
US v. Phillip A. Holman  
( Morgan )

CRIMINAL LAW & PROCEDURE. Whether the district court abused its discretion by requiring appellant to submit to injections of psychotropic medication as a special condition of his supervised release.

07-4220  
US v. Jason Conrad Poole  
( Williams )

HABEAS CORPUS. Whether district court had jurisdiction; whether relief under 28 U.S.C. Section 2241 was appropriate; whether vacated prior state conviction should count toward criminal history points.

07-1889  
US v. Under Seal  
( Lee )

GRAND JURY. Challenge to Grand Jury subpoena.

07-2024  
In Re: Grand Jury  
( Lee )

GRAND JURY. Challenge to grand jury subpoena.

Friday, March 21, 2008

PANEL II  
Courtroom 2  
Room 201 (Green Carpet)  
8:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-0014  
Elmore v. Ozmint  
( Norton )  
HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

07-4375  
US v. Martinez-Varela  
( Thornburg )  
SENTENCING GUIDELINES. Whether 16-level enhancement under USSG Section 2L1.2(b)(1)(A)(i) was correctly made for prior consecutive sentences in related cases that together exceeded thirteen months. 15 minutes per side.

07-1289  
Waybright v. Frederick Co Fire  
( Bennett )  
CONSTITUTIONAL LAW. Was summary judgment properly entered in favor of training instructor and other defendants on constitutional claims arising from death of firefighter recruit from heat stroke during training exercise.

Friday, March 21, 2008

PANEL III  
Courtroom 3  
Room 223 (Tan Carpet)  
8:30 a.m

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT  
Richmond, VA  
(03/18/2008 - 03/21/2008 Session)

07-1293 Schulman v. McDaniel Bennett ( Garbis )	CIVIL. Whether district court erred in limiting attorney's charging lien to legal services provided in case in which judgment was entered.
06-4738 US v. Michael Ibanga ( Kelley )	SENTENCING. Whether sentence was unreasonable because sentencing court refused to consider acquitted conduct. 15 minutes per side.
07-1124 Hatfill v. New York Times Co ( Hilton )	DEFAMATION. Whether plaintiff is a public official; could a reasonable jury find actual malice; whether district court erred in ordering disclosure of confidential sources; challenge to summary judgment.
06-5197 US v. Nanya Shaabu El ( Osteen )	CRIMINAL. Whether evidence was sufficient to show defendant fraudulently assumed diplomatic status under 18 U.S.C. Section 915; other issues.

Friday, March 21, 2008

PANEL IV  
Courtroom 4  
Room 414-D (Tweed Carpet)  
8:30 a.m